

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	MB Docket No. 17-106
Elimination of Main Studio Rule)	
)	

To: The Commission

COMMENTS OF MAX MEDIA LLC

Max Media LLC,¹ by counsel, hereby respectfully submits these Comments in response to the Notice of Proposed Rulemaking issued on May 18, 2017, in the above-captioned proceeding.²

In the recent NPRM, the Federal Communications Commission (“FCC” or “Commission”) proposes eliminating 47 CFR §73.1125, the “rule that requires each AM, FM, and television broadcast station to maintain a main studio located in or near its community of license” (the “Main Studio Rule”), as well as eliminating the “staffing and program origination capability requirements” that are associated with the Main Studio Rule.

The primary regulatory justifications for the Main Studio Rule have been eliminated. The program origination requirement was eliminated in 1987.³ Then the Commission’s public inspection file requirements were modernized and moved online.⁴ In January of this year, the

¹ Through its subsidiaries and affiliates, Max Media LLC (“Max Media”) manages and operates 29 commercial radio stations in Colorado, Illinois, Missouri, North Carolina, and Virginia. The majority of Max Media’s radio stations serve small radio markets.

² *Elimination of Main Studio Rule*, Notice of Proposed Rulemaking, 32 FCC Rcd 4415, 4415 ¶ 1 & 4418 ¶ 6 (2017) (“NPRM”).

³ NPRM at 4419 ¶ 9.

⁴ NPRM at 4415 ¶ 1 & n.4.

Commission repealed the local correspondence file rule.⁵ Additionally, technology has made the local studio unnecessary for listeners to access or communicate with their local stations.⁶

Max Media supports the proposal and thanks the Commission for the invitation to comment.⁷ Repeal of the Main Studio Rule would reduce unnecessary regulatory and economic burdens by providing increased flexibility as well as lowering administrative and compliance costs currently incurred by the stations Max Media manages and operates. The repeal would remove regulatory hurdles, make it more efficient for Max Media stations to co-locate their facilities, and allow Max Media stations to put more resources into station programming.⁸

This proposed repeal is especially important to geographically unique small markets that have adapted to technological advancements which have radically changed the way listeners communicate and interact with their local radio stations.

I. THE GEOGRAPHY OF NORTH CAROLINA’S OUTER BANKS IS AN EXAMPLE OF THE IMPRACTICALITY OF THE CURRENT MAIN STUDIO RULE.

The impracticality of the Main Studio Rule is widely acknowledged. The requirement was developed almost 80 years ago based on the legacy concept that in-person visits from community members are the best way for stations to connect with local listeners. However, in determining whether to eliminate the Main Studio Rule, the FCC should be sure to consider the unique geography of areas such as North Carolina’s Outer Banks and the obtuse literalism at the core of the Main Studio Rule that currently allows, if not requires, a station to site its main studio

⁵ *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, Report and Order, 32 FCC Red 1565 (2017).

⁶ NPRM at 4418 ¶ 6.

⁷ NPRM at 4418 ¶ 6.

⁸ NPRM at 4418 ¶ 7.

in a location that is disconnected from the actual geography of the community served by the station.

For example, in one of the few instances where the Commission has granted a main studio waiver for a commercial broadcast station, the FCC relieved Max Media's WCMS-FM, Hatteras, NC,⁹ of its main studio obligation in 2006 and acknowledged that doing so was in the public interest "due to the unique geographic attributes of North Carolina's Outer Banks."

Before the waiver was granted, WCMS-FM's main studio was located in Engelhard, NC. Engelhard satisfied the Main Studio Rule because the studio was within the station's principal community contour and was only 28 miles away, as the crow flies, from Hatteras, WCMS-FM's community of license. But the two communities are separated by the Pamlico Sound, the largest lagoon on the North American East Coast. The actual driving distance to Engelhard for a WCMS-FM listener located in Hatteras was a total of 108 miles. A listener needed to drive north to cross over to the mainland and then drive 50 miles south to get to the studio in Engelhard.

The Commission granted the main studio waiver and allowed WCMS-FM to co-locate its main studio with the studio in Nags Head, NC, that serves co-owned WCXL(FM), Kill Devil Hills, NC. By co-locating the studios, both stations benefited from efficiencies and reductions in operating costs and a listener in Hatteras would have a shorter drive to visit the WCMS-FM studio and would not even need to cross over to the mainland. Ultimately, the studio that was outside WCMS-FM's community contour was a better option for the station and its listeners than the studio that had complied with the Main Studio Rule.

⁹ The licensee of WCMS-FM is Max Radio of the Carolinas Licenses LLC.

II. CHANGES IN TECHNOLOGY AND CONSUMER PREFERENCE SUPPORT THE REPEAL OF THE MAIN STUDIO RULE.

WCMS-FM's waiver of the Main Studio Rule is over ten years old and now the near ubiquity of remote communication in the form of cell phones, email, and social media, have made in-person visits from community members unnecessary, if not obsolete.¹⁰ As Commissioner O'Rielly has pointed out, the justification for the Main Studio Rule has been "significantly weakened" due to the public's virtually universal choice to contact their local stations via telephone, mail, or (more recently) online.¹¹ And this change in consumer preference has been recognized by the Commission in rulemakings since at least 1987.¹²

In January of this year, the Pew Research Center released the results of its multi-year research tracking cell phone, internet, and social media usage in the United States. These studies show that 95% of Americans now own a cell phone,¹³ roughly 75% of American adults have broadband internet service in their homes,¹⁴ and approximately 69% of the public uses some type of social media.¹⁵

Additionally, changes in web access have allowed the public file to go online – which is far more convenient for listeners than driving to make an in-person visit to a main studio to inspect the file.¹⁶ As the FCC noted when it moved the public inspection files online, "[t]he

¹⁰ NPRM at 4418 ¶ 8.

¹¹ Michael O'Rielly, Comm'r, FCC, Address at the 2017 Hispanic Radio Conference, at p.3 (Mar. 28, 2017) available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0328/DOC-344114A1.pdf.

¹² 1987 Report and Order, 2 FCC Rcd at 3218 ¶ 32; 1998 Report and Order, 13 FCC Rcd at 15702 ¶ 22.

¹³ <http://www.pewinternet.org/fact-sheet/mobile/>.

¹⁴ <http://www.pewinternet.org/fact-sheet/internet-broadband/>.

¹⁵ <http://www.pewinternet.org/fact-sheet/social-media/>.

¹⁶ Although not all of the stations managed or operated by Max Media are currently subject to the online public file requirement, Max Media will of course migrate all of its stations to the Commission's online public file system prior to the applicable March 1, 2018 deadline.

evolution of the Internet and the spread of broadband infrastructure have transformed the way society accesses information today. It is no longer reasonable to require the public to travel to a station or headquarters' office to review the public file and make paper copies when a centralized, online file will permit review with a quick, easy, and almost costless Internet search.”¹⁷

The modern reality of, and overwhelming preference for, remote communication will allow stations to continue to be responsive to local interests and concerns – and to do so without the unnecessary regulatory cost of maintaining a main studio.

III. CONCLUSION

As a company that manages and operates 29 commercial radio stations, Max Media supports the Commission's proposal to repeal the Main Studio Rule. Max Media stations are dedicated to serving their listeners' local needs and covering local issues.¹⁸ However, this commitment to be responsive to local interests and concerns and to deliver responsive local programming has no connection to the legacy and unnecessary regulatory requirements of the Main Studio Rule.

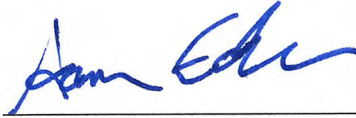
As the Commission considers repeal of the Main Studio Rule, the FCC should consider the geographically unique small markets that have adapted to technological advancements which have radically changed the way listeners communicate and interact with their local radio stations.

¹⁷ *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526, 527 ¶ 2 (2016).

¹⁸ NPRM at 4418 ¶ 8.

Respectfully submitted,

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